

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

Plaintiff

vs.

Civil Action No 04-303-ERIE
Misc. No

LARRY W. LAFFERTY AND
BETH A. LAFFERTY

Defendants

MOTION FOR ALTERNATIVE SERVICE
AS TO BETH A. LAFFERTY ONLY

AND NOW, comes Plaintiff, the United States of America, by and through its counsel, Mary Beth Buchanan, United States Attorney in and for the Western District of Pennsylvania and the Bernstein Law Firm, P.C., private counsel to the United States of America, and files its Motion for Alternative Service as to Beth A. Lafferty only, as follows:

1. Plaintiff the United States of America filed its Complaint in this action on October 14, 2004, against Defendants Larry W. Lafferty and Beth A. Lafferty, with regard to certain property located in Erie County, Pennsylvania, as more fully described in Plaintiff's Mortgage.
2. After having successfully served Defendant through the US Marshal's Office on January 20, 2005 at her last known address of 3211 Skellie Avenue, Erie, PA 16570, Plaintiff discovered that Defendant, Beth A. Lafferty had filed a Chapter 7 Bankruptcy on December 9, 2004.

3. Since the prior service was made on said Defendant without knowledge of her bankruptcy and after the bankruptcy had been filed, service is defective and Defendant must be re-served.
4. Defendant's bankruptcy was subsequently discharged and Plaintiff attempted personal service on Defendant, Beth A. Lafferty, once again, at her last known address of 3211 Skellie Avenue, Erie, PA 16510 by the United States Marshal's Office on May 23, 2005.
5. However, the United States Marshal's Office made an unexecuted return of service on June 23, 2005 and June 29, 2005, which indicated that "Notice placed in front with all contact information" and that he was unable to locate Beth A. Lafferty named above. A true and correct copy of the Marshal's (Form 285) return of no service is attached hereto, marked as Exhibit "1" and made a part hereof.
6. Thereafter, Plaintiff inquired with the U.S. Postmaster to confirm the current address information for the Defendant, Beth A. Lafferty.
7. The U.S. Postmaster confirmed that the current address for Defendant, Beth A. Lafferty, is 3211 Skellie Avenue, Erie, PA 16510. A true and correct copy of the Postal Letter is attached hereto, marked as Exhibit "2" and made a part hereof.
8. The Plaintiff obtained a recent credit report for the Defendant, Beth A. Lafferty, which lists Defendant's current address as 3211 Skellie Avenue, Erie, PA 16510.

9. Plaintiff has also investigated the aforesaid Defendant's whereabouts with Directory Assistance, which confirmed no listing for Defendant
10. Plaintiff made inquiry of the Erie County Office of Voter Registration, a representative of which advised that the Defendant is not registered to vote in Erie County
11. Rule 430 of the Pennsylvania Rules of Civil Procedure provides that if service cannot be made under the applicable rule, the Plaintiff may move the court for a special order directing the method of service.
12. With respect to real property actions, Pennsylvania Rule of Civil Procedure 410 provides that, if service is made pursuant to an Order of Court under Rule 430(a), the Court shall direct one or more of the following methods of service:
 - (1) publication as provided by Rule 430(b),
 - (2) posting a copy of the original process on the most public part of the property,
 - (3) registered mail to the defendant's last known address, and
 - (4) such other methods, if any, as the court deems appropriate to give notice to the Defendant
13. Plaintiff believes that adequate service in this case will be provided by posting a copy of the original process on the most public part of the mortgaged property at 4230 S. Washington Street, North East PA 16428 and by regular mail to Defendant Beth A Lafferty's last known mailing address of 3211 Skellie Avenue, Erie, PA 16510.

WHEREFORE, Plaintiff requests that this Honorable Court enter an Order authorizing service of process by posting the mortgaged premises known as 4230 S. Washington Street, North East PA 16428 and by regular mail to Defendant Beth A. Lafferty's last known mailing address of 3211 Skellie Avenue, Erie, PA 16510

Respectfully submitted,

BERNSTEIN LAW FIRM, P C

By: 

Lori A. Gibson Esquire

Attorney for Plaintiff

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